

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Crl.MC.No. 2607 of 2007()

S.T.2973/05 OF JFMC, ALATHUR

PETITIONER: ACCUSED

1. AJAYAN,S/O. CHAMY,AGED 35 YEARS,
CHERUCODE VEEDU, VANDAZHY,ALATHUR TALUK.
2. BALAN,S/O.VELAN,AGED 32 YEARS,
VALLIKKADU VEEDU, KZHANI, CHUNGAM,
KAVASSERY, ALATHUR TALUK.
3. BIJU,S/O.MAYANDI, AGED 29 YEARS
CHERINKALPARAMBU,PULLAMPADAM,
VANDAZHY,ALATHUR TALUK.

BY ADV. SRI.JOHNSON P.JOHN
SRI.BABY MATHEW

RESPONDENTS:

1. STATE OF KERALA,REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.
2. SUB INSPECTOR OF POLICE.
3. SUB INSPECTOR OF POLICE,
MANGALAM DAM POLICE STATION,
PALAKKAD DISTRICT.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.2607 of 2007

Dated this the 16th day of August, 2007

O R D E R

The petitioners face indictment in a prosecution for offences punishable, inter alia, under Sections 323 and 341 I.P.C. All offences are bailable, it is submitted. On receipt of summons from the court, the petitioners appeared before the learned Magistrate and were enlarged on bail. But as the petitioners were not able to appear before the learned Magistrate on one date of posting ie. 28.06.07, the learned Magistrate has issued non bailable warrants against the petitioners. Such warrants are chasing the petitioners now. According to the petitioners, they are absolutely innocent. Their absence was not wilful. They had filed an application to excuse their absence. But that application was rejected and non bailable warrants were issued by the learned Magistrate. The petitioners are prepared to surrender before the learned Magistrate and seek regular bail. the petitioners apprehend that their application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioners.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. There shall be a direction that the warrants of arrest issued by the learned Magistrate against the petitioners shall not be executed till 4.9.07. The petitioners shall in the meantime appear before the learned Magistrate and seek regular bail.

(R.BASANT, JUDGE)

rtr/-

